

Jurisdiction's name:

Denmark

Information on Residency for tax purposes

Section I – Criteria for Individuals to be considered a tax resident

As a general rule, all individuals who establish a home in Denmark are deemed to be residents in Denmark.

Even if the individual has not established a home in Denmark, he is deemed to be resident in Denmark when:

- The individual is staying in Denmark for a period of at least six months.
- The individual is a Danish citizen and is serving or permanently staying on board ships based in Denmark.
- The individual is a Danish citizen and has been stationed abroad by the Danish state, regions, municipalities or other public institutions.

If an individual is considered a tax resident in Denmark and is also considered a tax resident in another country, the individual is dual resident.

If Denmark does not have a Double Taxation Agreement (DTA) with the other country, Denmark is entitled to tax the individual's worldwide income. This means that all income, regardless of country of origin, may be taxed in Denmark.

If Denmark has a DTA with the other country, the DTA will determine where the individual is resident for tax purposes.

The right of taxation is determined by:

- Where the individual concerned is resident for tax purposes in accordance with the DTA (i.e. where the individual has a permanent home available, closest personal and economic relations (centre of vital interests), habitual abode or citizenship).
- Where the income is earned.
- Type of income.

Relevant tax provisions:

Section 1 (1), paras (1-4) Taxation at Source Act (Kildeskatteloven)

Section 4 of the Danish Central Government Taxation Act (Statsskatteloven)

Article 4 of the OECD Model Tax Convention

Section II – Criteria for Entities to be considered a tax resident

Corporations are considered tax resident in Denmark if they are registered in Denmark, or if their place of effective management is in Denmark. The Faroe Islands and Greenland are in this respect not considered a part of Denmark.

This applies to among others to public and private limited companies and other companies in which none of the participants are personally liable for the company's obligations and which distributes the profit in proportion to the participants' invested capital in the company.

Whether a company's place of effective management is situated in Denmark depends on an individual assessment of the concrete circumstances with emphasis on the day-to-day management of the company.

Foundations and associations covered by the Danish Foundations Act (Fondsloven) and the Commercial Foundations Act (Erhvervsfondsloven) are taxable under the Act on Taxable Nonstock Corporations (Fondsbeskatningsloven) and are considered tax residents in Denmark. This includes associations (trade associations etc.), labour associations and certain other private institutions in Denmark.

The term "foundation" means a legal person owning assets which are irrevocably separated from the founder's personal assets.

Foreign foundations are also considered tax residents in Denmark, if their place of effective management is in Denmark, regardless of where the foundation is registered.

Pension funds are in general considered tax residents in Denmark.

Special considerations apply to investment funds.

More information

More information is available in the Danish Tax Authority's legal guide (SKAT's Juridiske Vejledning) at www.SKAT.dk, in Sections C.F.8.2.2.4.2.1 on tax residency, C.D.1. on subjective tax liability and C.D.9. on taxation of foundations and certain associations". The guide is only available in Danish.

Section III – Entity types that are as a rule not considered tax residents

Tax transparent entities

Tax transparent entities are not considered tax resident in Denmark.

In general entities are considered transparent for tax purposes if at least one of the participants in the entity is personally liable for the obligations of the entity. This applies for example to limited partnership companies (Kommanditaktieselskaber) and partnerships limited by shares (Partnerselskaber) where the general partner is personally liable. All the participants are taxed according to the transparency principle, including the limited partners.

The same applies to partnerships (Interessentskaber) where all participants are liable for the obligations of the partnership.

In case an entity is considered transparent for Danish tax purposes, assets held by the entity are for tax purposes considered held by the participants and income earned by the entity is for tax purposes deemed to be earned by the participants.

Requalification of entities

According to anti-avoidance rules, entities are in certain circumstances requalified from transparent to opaque and vice versa.

According to section 2C of the Corporation Tax Act, branches of foreign companies and fiscally transparent entities are considered taxable corporations in certain cases, e.g., if one or more associated persons, who together directly or indirectly own at least 50 per cent. of the voting rights, the capital, or the right to share in the profits is domiciled in one or more foreign states, where the entity is treated as a separate entity for tax purposes, or that do not exchange information with the Danish authorities, or which do not have a double taxation agreement with Denmark, and which is not a member of the EU.

Council Directives (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market and 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries, have been implemented in Danish tax legislation dealing with tax abuse in connection with among others conflict in the characterisation of financial instruments, payments, and entities.

A Similar provision applies to certain foreign foundations, which have their effective place of management in Denmark.

More information

More information is available in the Danish Tax Authority's legal guide (SKATs Juridiske Vejledning) at www.SKAT.dk, in sections C.F.8.2.2.1.2 on partnerships etc. and C.D.1. on subjective tax liability. The guide is only available in Danish.

Section IV – Contact point for further information

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